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DEPT FOR JBRENNAN (CA/VO/F), BGILCHRIST (EUR/NB)

SENSITIVE
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SUBJECT: DHS AND DOJ VISIT TALLINN TO NEGOTIATE PCSC AGREEMENT

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¶1. Summary: A U.S. delegation co-led by the Department of Justice (DoJ) and the Department of Homeland Security (DHS) visited Tallinn on July 21 to spearhead negotiations of a Prum-like, PCSC (Preventing and Combating Serious Crime) Agreement with the Government of Estonia (GoE). An information-sharing agreement at its core, the accord will formalize law enforcement cooperation among the DoJ, DHS, and GoE and, furthermore, it will fulfill one of the technical obligations required for Estonia to join the Visa Waiver Program (VWP). Both sides expect a final version will be ready for signature by early September. End Summary

¶2. Meetings started in the morning and concluded by early afternoon on July 21. Prior to the meeting the GoE and the delegation had several preliminary conversations about the text's content and potentially problematic language. The delegation, by and large, assuaged these GoE concerns. However, four questions need to be resolved prior to formalizing the text:

A) The GoE wants to further evaluate the DNA provisions of the agreement. It is now understood that neither side possesses the legislative or technical means to actively share this kind of data. However, these provisions should remain a part of the agreement in hopes that an infrastructure can be set up in the coming years to support DNA analysis and sharing. [Comment: While the GoE asked to review the language again, it is unlikely to suggest any amendments.]

B) Articles 4 and 5 of the text will be reworded to take into account the GoE's lack of an automated fingerprint database that links to criminal history record information. Other mention in the text alluding to Articles 4 and 5 will be changed to conform to the updated language.

C) The USG delegation will determine if additions to the text suggested by the GoE can be incorporated into Articles 13, 14 and ¶15.

D) Both sides have agreed to further explore a specific, yet flexible, definition of "serious crime" that meets the needs of both governments. This appears to be the single legitimate obstacle for the GoE. Ambassador Aino Lepik Von Wiren (head of the GoE negotiating team) stated that the GoE required a more specific definition of serious crime to provide clarity in order to sign the document. The USG delegation has suggested using language from the U.S.-Estonian and/or US-EU extradition treaty and will follow up with a recommendation. [Comment: the U.S.-Estonian Extradition Treaty is from the 1920s; therefore it will not work for this purpose.]

¶3. Both sides expressed satisfaction with the outcome of the negotiations and optimism that the agreement will be ready to sign by early September. Discussions of the aforementioned four questions will take place via email. The USG delegation also reiterated the need to review the Estonian translation of the text. Once signed, future negotiations will take place to flesh out the

technical arrangements and mechanisms to implement data sharing.

¶4. The PCSC agreement satisfies a critical requirement for Estonia to join the VWP. A signed agreement [without the subsequent implementing arrangements] will mean that Estonia has fulfilled one of its commitments on information sharing relative to the VWP MOU (reftel) signed by Secretary Chertoff in March.

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